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May 17, 2011

**Hon. A. Kathleen Tomlinson**  
**Alphonse M. D'Amato Federal Courthouse**  
**100 Federal Plaza**  
**Central Islip, NY 11722**

**RE: *Steven DeNicola individually and on behalf of all others similarly situated v. Asset Recovery Solutions, LLC* 11 CV 1192**

Honorable Judge Tomlinson,

I represent the Plaintiff in the above referenced matter. The Plaintiff brings this action on behalf of himself and all others similarly situated alleging violations of the Fair Debt Collection Practices Act. (15 USC 1692 et al). Please accept this letter as a request to proceed with discovery.

On March 16, 2011 the Defendant was served with the Summons and Complaint in this matter. Service occurred via the New York Secretary of State. The Defendant has not filed an answer or appeared in the action. The undersigned has additionally notified the Defendant via letter that they have failed to appear. It is apparent that the Defendant does not intend to participate in the defense of this action.

While the Defendant's default establishes the facts alleged in the complaint, Plaintiff needs to acquire certain additional information (via Rule 45 based discovery) in order to move for class certification pursuant to Rule 23. See *Williams v. Goldman & Steinberg, Inc.*, No. CV03-2132, 2006 WL 2053715, at \*1 (E.D.N.Y. July 21, 2006).

After acquiring the necessary information, Plaintiff intends to move for class certification (if appropriate) and a default judgment against Defendant. The determination as to whether the default judgment shall be entered on behalf of the individual Plaintiff or the class must await the class discovery. See, Id.

Plaintiff respectfully requests permission to proceed with discovery via Rule 45.

Sincerely,

Joseph Mauro